

MT LEGISLATIVE HISTORY

Chapter 563 1985

Bill (H) 522 S _____

Original bill & hist. ☒ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) FEB 08 ☒ C

Hearing Date(s) MAR 02 ☒ C

FEB 14 ☒ C

_____ ☐ C

_____ ☐ C

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_____ ☐ C

_____ ☐ C

Date Out FEB 14 ☒ C

3/7 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE BILL NO. 522
INTRODUCED BY PECK, SANDS

IN THE HOUSE

January 28, 1985	Introduced and referred to Committee on Judiciary.
February 14, 1985	Committee recommend bill do pass as amended. Report adopted.
February 15, 1985	Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass.
February 18, 1985	Considered correctly engrossed.
February 19, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 21, 1985	Introduced and referred to Committee on Judiciary.
March 7, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 9, 1985	Second reading, concurred in.
March 12, 1985	Third reading, concurred in. Ayes, 50; Noes, 0. Returned to House with amendments.

IN THE HOUSE

March 13, 1985	Received from Senate.
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April 8, 1985

Second reading, amendments
concurred in.

On motion, rules suspended and
bill placed on third reading this
day.

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 522
 2 INTRODUCED BY Reed Smith
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR LAWFUL
 5 SERVICE UPON CLAIMANTS OR OWNERS OF CERTAIN PROPERTY SUBJECT
 6 TO FORFEITURE; AMENDING SECTIONS 44-12-201 THROUGH
 7 44-12-203, 81-5-104, AND 81-5-106, MCA; AND REPEALING
 8 SECTION 81-5-105, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 44-12-201, MCA, is amended to read:

12 "44-12-201. Notice--of--seizure-and-intention Petition
 13 to institute forfeiture proceedings -- summons -- service.

14 A peace officer or an officer of the-seizing an agency who
 15 that seizes any property other than controlled substances
 16 under the provisions of this chapter shall, within 45 days
 17 of the seizure, file a notice-of-the-seizure--and--intention
 18 petition to institute forfeiture proceedings with the clerk
 19 of the district court of the county in which the seizure
 20 occurs;--and--the. The clerk shall serve-notice-thereof-on
 21 issue a summons at the request of the petitioning party, who
 22 shall cause the same to be served upon all owners or
 23 claimants of the property by one of the following methods:

24 it}--upon-an-owner-or-claimant-whose-right,--title,--or
 25 interest--is-of-record-in-the-division-of-motor-vehicles;--by

1 mailing-a-copy-of-the-notice-by-certified-or-registered-mail
 2 to-the-address-on-the-records-of-the-division;
 3 {2}(1) upon an owner or claimant whose name and
 4 address are known, by mailing personal service of a copy of
 5 the notice-by-certified-or-registered-mail-to-his-last-known
 6 address petition and summons as provided in the Montana
 7 Rules of Civil Procedure;

8 {3}(2) upon an owner or claimant whose address is
 9 unknown but who is believed to have an interest in the
 10 property, by publication of the summons in one issue of a
 11 newspaper of general circulation in the county where the
 12 seizure occurred or, if there is no such newspaper, by
 13 publication in one issue of a newspaper of general
 14 circulation in an adjoining county, and by mailing a copy of
 15 the petition and summons to the most recent address of such
 16 owner or claimant, if any, shown in the records of the
 17 division of motor vehicles."

18 Section 2. Section 44-12-202, MCA; is amended to read:

19 "44-12-202. Answer to allegations concerning use of
 20 property. Within 20 days after the mailing service of the
 21 petition and summons or publication of the notice summons,
 22 as provided in 44-12-201, the owner or claimant of the
 23 seized property shall file a verified answer to the
 24 allegations concerning the use of the property contained
 25 described in the notice-of-seizure-and-intention petition to

1 institute forfeiture proceedings. No extension of the time
2 for filing the answer may be granted, and failure to answer
3 within 20 days bars the owner or claimant from presenting
4 evidence at any subsequent evidentiary hearing unless
5 extraordinary circumstances exist."

6 Section 3. Section 44-12-203, MCA, is amended to read:
7 "44-12-203. Presumption -- procedure following answer
8 or expiration of time for answering. (1) There is a
9 rebuttable presumption of forfeiture as to all property
10 listed in 44-12-102.

11 (2) If a verified answer to the notice petition is not
12 filed within 20 days after the mailing--or--publication
13 service of the notice petition and summons, the court upon
14 motion must order the property forfeited to the state.

15 (3) If a verified answer is filed within 20 days, the
16 forfeiture proceedings shall be set for hearing without a
17 jury not less than ~~30~~ 60 days after the answer is filed.
18 Notice of the hearing shall be given in the manner provided
19 for service of notice-of-seizure the petition and summons."

20 Section 4. Section 81-5-104, MCA, is amended to read:

21 "81-5-104. Stolen livestock -- seizure and
22 confiscating forfeiture of vehicle used to transport. (1)
23 The use of any vehicle for the transportation of any stolen
24 mule, horse, mare, colt, foal, filly, sheep, lamb, cow,
25 calf, heifer, steer, bull, hogs, poultry, or the products of

1 any thereof ~~shall be~~ is unlawful, and such vehicle shall be
2 forfeited to ~~and confiscated by~~ the state. Any such vehicle
3 found in such use or upon probable cause believed to be
4 devoted wholly or in part to such use shall be seized and
5 held ~~and, upon conviction in a proceeding in the name of the~~
6 ~~state of Montana against such vehicle or against such~~
7 ~~vehicle and the owner before any district court or judge~~
8 ~~thereof, shall be confiscated and sold.~~

9 (2) Within 45 days after the seizure, any peace
10 officer or officer of the agency that seizes any property
11 shall file a petition to institute forfeiture proceedings
12 with the clerk of the district court of the county in which
13 the seizure occurs. The clerk shall issue a summons at the
14 request of the petitioning party, who shall cause the same
15 to be served upon all owners or claimants of the property by
16 one of the following methods:

17 (a) upon an owner or claimant whose address is known,
18 by personal service of a copy of the petition and summons as
19 provided in the Montana Rules of Civil Procedure;

20 (b) upon an owner or claimant whose address is unknown
21 but who is believed to have an interest in the property, by
22 publication of the summons in one issue of a newspaper of
23 general circulation in the county where the seizure occurred
24 or, if there is no such newspaper, by publication in one
25 issue of a newspaper of general circulation in an adjoining

1 county, and by mailing a copy of the petition and summons to
 2 the most recent address of such owner or claimant, if any,
 3 shown in the records of the division of motor vehicles.

4 ~~(2)(3)~~ Such A vehicle ~~shall~~ is not be--~~confiscated--or~~
 5 subject to forfeiture under this section if ~~the same be it~~
 6 is a stolen vehicle at the time it is used for such unlawful
 7 transportation and the owner thereof is not in collusion
 8 with the party or parties guilty of the theft."

9 NEW SECTION. Section 5. Answer to allegations
 10 concerning use of property. Within 20 days after the service
 11 of the petition and summons or publication of the summons,
 12 as provided in 81-5-104, the owner or claimant of the seized
 13 property shall file a verified answer to the allegations
 14 concerning the use of the property contained in the petition
 15 to institute forfeiture proceedings. No extension of the
 16 time for filing the answer may be granted, and failure to
 17 answer within 20 days bars the owner or claimants from
 18 presenting evidence at any subsequent evidentiary hearing
 19 unless extraordinary circumstances exist.

20 NEW SECTION. Section 6. Presumption -- hearing --
 21 disposition of vehicle. (1) There is a rebuttable
 22 presumption of forfeiture as to all property used for the
 23 transportation of the livestock as provided in 81-5-104.

24 (2) If a verified answer to the petition is not filed
 25 within 20 days after the service of the petition and

1 summons, the court upon motion shall order the property
 2 forfeited to the state.

3 (3) If a verified answer is filed within 20 days, a
 4 hearing on the petition for forfeiture must be set without a
 5 jury not less than 60 days after the answer is filed. Notice
 6 of the hearing must be given in the manner provided for
 7 service of petition and summons.

8 (4) If the court finds a vehicle was not used for the
 9 purpose charged or that it was used without the consent or
 10 knowledge of the owner, it shall order the property released
 11 to the owner of record on the date of the seizure. If the
 12 court finds the vehicle was used for the purpose charged and
 13 was used with the knowledge and consent of the owner, the
 14 property must be ordered forfeited.

15 Section 7. Section 81-5-106, MCA, is amended to read:

16 "81-5-106. Sale at public auction. ~~Such sale~~ Vehicles
 17 forfeited under [section 6] shall be sold at public auction
 18 ~~and--otherwise~~ in the manner of sales of personal property
 19 under execution and may be ~~made~~ sold by any sheriff,
 20 livestock inspector, or other peace officer."

21 NEW SECTION. Section 8. Codification instruction.
 22 Sections 5 and 6 are intended to be codified as an integral
 23 part of Title 81, chapter 5, part 1.

24 NEW SECTION. Section 9. Repealer. Section 81-5-105,
 25 MCA, is repealed.

-End-

SECRETARY-STALEY, CINDY

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REFERRER TO COMM	DATE OUT
HB0520	3/05	3/25		CONCUR		3/28
GRADY, EDWARD J.			CLARIFYING PUBLIC DOES NOT HAVE RIGHT TO USE DIVERTED WATER FOR RECREATION			
HB0522	2/21	3/07		CONCUR AS AMENDED		3/7
PECK, RAY			PROVIDING NOTICE TO CLAIMANTS OF CERTAIN PROPERTY SUBJECT TO FORFEITURE			
HB0529	3/05	3/18		CONCUR		3/22
ADDY, KELLY			WORKERS' COMP. REMEDIES WHEN EMPLOYER IS UNINSURED			
HB0532	2/13				BUSINESS & LABOR	
PISTORIA, PAUL G.			LIMITATION ON PENALTIES THAT MAY BE IMPOSED BY A PRIVATE PARKING SERVICE			
HB0541	2/22	3/21		CONCUR AS AMENDED		3/23
DARKO, PAULA A.			PARTY MULTIPLYING LEGAL PROCEEDINGS LIABLE FOR INCREASED COSTS			
HB0547	2/13	3/11		CONCUR		3/11
MILES, JOAN			REVISION OF LAW ON CERTAIN SEXUAL CRIMES			
HB0566	2/21	3/12		CONCUR		3/12
THOMAS, FRED			PROHIBIT INSTALLATION AND USE OF DIAL-UP SECURITY ALARM SYSTEMS			
HB0575	2/16	3/25		ADVERSE REPORT /as amended		3/25
KADAS, MIKE			INCREASED PENALTY FOR CERTAIN UNLAWFUL RESTRAINTS OF A CHILD			
HB0579	2/16	3/12		CONCUR AS AMENDED		3/21
WINSLOW, CAL			CERTIFICATION FOR VOLUNTARY ADMISSION OF MENTAL PATIENT TO STATE HOSPITAL			
HB0585	2/22	3/20	3/20	CONCUR AS AMENDED		3/23
GOULD, R. BUDD			REVISE SENTENCE REVIEW PROCEDURE			
HB0586	2/19	3/20		CONCUR		3/20
GOULD, R. BUDD			CONFISCATE AND DISPOSE OF INMATES' CONTRABAND			

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: Representative Pistoria stated there really were no problems with the bill. He hopes the committee passes it with the amendment.

Hearing on HB 264 was closed.

CONSIDERATION OF HB 639: Representative Dennis Nathe, sponsor of HB 639, testified this is a polygraph licensing bill which he carried at the request of the Department of Commerce. It is a clean-up bill. The bottom of page 3 indicates a change in the time of year in which they must pay their licensing fees. Page 4, line 11, is a new section describing the internship licenses. Section 5 sets forth more criteria for the people who are being examined by polygraph and gives them the right to have the questions presented to them before they are asked by the examiner and gives them the right to terminate the examination at any time.

PROPOSERS: Mike Stotts, member of the Montana Association of Polygraph Examiners, testified they highly support the bill as amended. Mary Lou Garrett, of the Department of Commerce, urged support of the bill, especially the renewal section. They need it for administrative purposes.

QUESTIONS FROM THE COMMITTEE: Senator Towe questioned the reason for the fingerprint. Mr. Stotts replied we have people from out of state that are licensed to do polygraph examinations in Montana, and they are not necessarily in law enforcement, so they would like to be able to keep track of them and know who they are. Senator Towe asked how the fingerprints will help in this regard. Ms. Garrett replied there is a flyer that goes around the state. People are giving polygraphs for employment purposes, and these people are some fly-by-night group. They are not adequately trained or associated with any group. They are using the polygraph for blackmail. Senator Towe stated that is no different than any other occupational group of licenses. We don't want felons there either, but we don't require fingerprints. Ms. Garrett responded it is standard in other states for polygraph examiners.

CLOSING STATEMENT: None.

Hearing on HB 639 was closed.

CONSIDERATION OF HB 522: Representative Ray Peck, sponsor of HB 522, testified this bill was requested by the Hill County Attorney. It deals with property that is forfeited under the law and as to how they proceed on the forfeiture once they have the property in hand. It deals with

controlled substances and unlawful possession of livestock. The bill specifically excludes any vehicle that is stolen and used in transport. It outlines the procedures that should be followed, because the procedures are not in law, and, therefore, the forfeited property could be questioned on the basis of due process. This basically provides the due process procedure for dealing with property that is forfeited.

PROPOSERS: None.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Mazurek asked if the County Attorneys' Association supported this bill in the House. Representative Peck replied Ron Smith testified, but he was not sure if he represented the association. Senator Towe asked if there were any intent to expand or reduce the number of items that can be forfeited, but rather just deals with the procedure. Representative Peck replied yes. The law provided for the seizure but did not provide how to go about it. Senator Towe asked what happened to the proceeds from the sale. Representative Peck replied it is not specified in the bill. Senator Mazurek commented it goes to the county general fund. Senator Towe asked what forfeitures were covered by the scope of this bill. Representative Peck replied vehicles in terms of stolen livestock or drugs. There is a difference in the disposition of funds. Senator Towe stated he thinks it might also apply to seizure of controlled substances. Representative Peck stated the procedure would apply to both, but there would be a difference as to the disposition of funds.

CLOSING STATEMENT: None.

Hearing on HB 522 was closed.

ACTION ON HB 264: Senator Towe moved HB 264 be amended as follows:

Page 2, line 5.

Following: line 4

Insert: "(3) This section does not supersede any contractual payment procedure agreed to by the contractor and the supplier or subcontractor."

Senator Mazurek stated you want to be sure this is over and above an open account. The amendment does address whether this is in addition to or in lieu of that procedure. The motion carried unanimously. Senator Mazurek asked if this were in addition to any open account that may be there. Senator Towe replied yes. Senator Crippen asked if there were a dispute between the contractor and the subcontractor as to the amount

close to this. But if you are going to protect them, you have to do something like this. So far they have fought everything and don't want to do this. Senator Brown pointed out if you pass the bill with an amended effective date, you might as well kill the interim study. Senator Crippen replied sometimes when you are making sausage, you add garlic at the end. Senator Towe pointed out there is a lot more to the lien study than just this. This is one area that is a concern, but there are a lot of other areas, too. The motion to amend the effective date failed with Senators Blaylock, Pinsoneault, Shaw, and Towe voting in favor. Senator Towe moved HB 329 be recommended BE CONCURRED IN AS AMENDED. Senator Towe asked if anyone had any problem with the ten days. Senator Paul Boylan stated the material suppliers are against it. The motion carried with Senators Daniels, Mazurek, and Yellowtail voting in opposition.

ACTION ON HB 639: Senator Towe stated the main reason the bill came in is the language on the bottom of page 1. He had no objection to section 5 and felt it was good, but he didn't care about the internship. Senator Towe moved HB 639 be amended by striking subsection 7 on page 3, lines 14-17, along with the necessary technical amendments to accomplish this. The motion carried with Senator Pinsoneault voting in opposition. Senator Towe moved HB 639 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senators Daniels and Shaw voting in opposition.

ACTION ON HB 522: Senator Towe asked what the repealer was. Mr. Petesch responded some procedural things in the stolen livestock laws. Senator Mazurek commented this provides some protection to a person whose property was seized because it was used in the commission of a felony act. This gives you notice. Mr. Petesch stated the repealer is repealing the notice provision. Senator Mazurek asked if there were any other precedent for only one publication. Mr. Petesch answered this is existing statute. Senator Towe stated "and" on page 5, lines 4-8, is critical. The only vehicle that can be forfeited is if it is stolen and the owner is not in collusion with the guilty party, then it may be subject to forfeiture. We have a conjunctive in a negative. Senator Towe moved HB 522 be amended as follows:

1. Page 5, line 5.
Following: "if"
Insert: "(a)"
2. Page 5, line 7.
Following: "transportation"
Strike: "and"
Insert: ", or (b)"

Senate Judiciary Committee
Minutes of the Meeting
March 7, 1985
Page 9

The motion carried unanimously. Senator Towe moved HB 522 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

There being no further business to come before the committee, the meeting was adjourned at 11:57 a.m.



Committee Chairman

STANDING COMMITTEE REPORT

March 7

19 85

MR. PRESIDENT

We, your committee on..... JUDICIARY

having had under consideration..... HOUSE BILL No. 522

third reading copy (blue)
color

(Senator Towe)

PROVIDING NOTICE TO CLAIMANTS OF CERTAIN PROPERTY SUBJECT TO FORFEITURE

Respectfully report as follows: That..... HOUSE BILL No. 522

be amended as follows:

1. Page 5, line 5.

Following: "if"

Insert: ": (a)"

2. Page 5, line 7.

Following: "transportation"

Strike: "and"

Insert: ", or (b)"

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXX~~

Senator Joe Mazurek

Chairman.

CLERICAL

Date: March

House Bill 522

Time: 12:45 pm

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

Senate Judiciary Committee 3/7

Amendment # 2

insert: " ; or (b) "

instead of ") "

3/11/85

[Signature]
Sponsor

NER

Secretary of Senate
or
Chief Clerk

Legislative Council

(To be kept current -- post bills when entering being heard or leaving committee.)

Form CS-32

STATUS SHEET

FORTY-NINTH

LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 520	1/28/85	2/11/85 2/23/85	2/23/85			2/23/85			
HB 521	1/28/85	2/1/85	2/20/85		2/1/85				
HB 522	1/28/85	2/8/85 2/14/85	2/14/85			2/14/85			
HB 529	1/28/85	2/11/85 2/22/85	2/22/85			2/22/85			
HB 528	1/28/85	2/8/85 2/16/85	2/16/85		2/16/85				
HB 531	1/29/85	2/6/85 2/8/85	2/8/85			2/8/85			
HB 532	1/29/85	2/6/85 2/8/85	2/8/85	2/8/85					
HB 533	1/29/85	2/12/85 2/20/85	2/23/85		2/20/85	AS AMENDED			
HB 536	1/29/85	2/12/85 2/20/85	2/23/85		2/20/85	<i>Re-referred back to Comm. 2-27</i>			
HB 541	1/29/85	2/15/85 2/16/85	2/16/85	2/16/85					
HB 547	1/29/85	2/7/85 2/8/85	2/8/85	2/8/85					
HB 557	1/29/85	2/13/85	2/13/85			2/13/85			
HB 566	1/30/85	2/8/85 2/13/85	2/13/85	(WITHOUT RECOMMENDATION)		AS AMENDED			
HB 575	1/30/85	2/8/85 2/11/85	2/11/85			2/11/85			
HB 577	1/31/85	2/15/85 2/16/85	2/16/85			2/16/85			
HB 585	1/31/85	2/15/85 2/16/85	2/16/85	2/16/85					

that a place was needed to detain delinquent youths who are awaiting trial. He said that without such a facility, there could be an increased number of lawsuits. Mr. Meeker informed the committee that at the present time, girls are held in the Mountain View facility.

Curt Chisholm, Deputy Director for the Department of Institutions, informed the committee that Pine Hills School for Boys doesn't have adequate facilities; however, Mountain View School does. He stated his support of this bill as requested by the Montana Board of Crime Control.

There being no further proponents or opponents, Rep. Donaldson closed.

In response to some general questions, Mr. Nelson stated that the clinical staff at Mountain View school will be available for the additional juveniles sent there. He pointed out that another part-time teacher may be hired.

In response to question asked by Rep. Montayne, Mr. Chisholm stated that the Department of Institutions did not want to define Swan River Forest as a juvenile detention center.

Jeff Langen offered some comments with regards to the bill. He said they have spent a great deal of time to come up with a legislative package such as this.

There being no further questions, hearing closed on HB 667.

CONSIDERATION OF HOUSE BILL NO. 522: Rep. Ray Peck, House District #15, appeared and offered testimony in support of this bill. The bill is an act providing for lawful service upon claimants or owners of certain property subject to forfeiture. He said that the intent of the bill is to provide due process in the sections as stated in the bill which is not currently being provided.

There being no further proponent or opponents, Rep. Peck closed. The committee asked no questions, and hearing on HB 522 closed.

CONSIDERATION OF HOUSE BILL NO. 528: Rep. Norm Wallin, District #78, appeared and offered testimony as HB 528's sponsor. This is an act providing the right of access on-to public or private property when necessary for the completion of a survey. He said that surveyors need accessibility in order to complete the work intended. He said this bill just simply gives them the right to locate reference points and complete their surveys.

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/8/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady			✓
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek			✓

ACTION ON HOUSE BILL NO. 656: Rep. Hammond moved that HB 656 DO PASS. The motion was seconded by Rep. Krueger.

Rep. Hammond further moved on page 1, line 22 following "the" strike "division of"; furthermore, following "compensation" insert the word "judge". The motion was seconded by Rep. Darko. The question was called and the motion carried with Rep. Montayne dissenting.

Rep. Brown moved that HB 656 DO PASS AS AMENDED. The motion was seconded by Rep. Krueger and the bill was further discussed.

Rep. Hannah wanted to know what kind of chilling effect this legislation would have on insurance companies. Rep. Addy stated that he doesn't feel there will be any effect on claims without liability. He said this bill will not affect those cases with a disputed amount.

The question was called, and the DO PASS motion carried unanimously.

ACTION ON HOUSE BILL NO. 522: Rep. O'Hara moved that HB 522 DO PASS. The motion was seconded by Rep. Hammond.

Rep. Krueger said that this bill deals with changes and further clarifies the time period in addition to describing how notice is to be given in the event certain property is subject to forfeiture. Rep. Krueger stated that the problem he sees with the bill is the fact that it is possible that the property can be sold before a court procedure is held. He continued by saying this legislation is current law and just amends the present law in regards with the notice provisions.

Rep. Hannah moved to amend on page 4, line 9 by striking "seizure" and inserting the word "conviction". He, too, feels that someone's property should be sold until that person is found guilty. Rep. Brown seconded the motion.

Rep. Addy spoke against the motion to amend by saying he doesn't think this safeguard is needed. He pointed out that a defendant can file an Answer. Rep. Gould also stated his opposition to the motion by saying it just muddies the water.

The question was called on the motion to amend, and it failed on a voice vote.

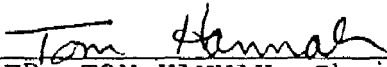
Rep. Hammond moved that HB 522 DO PASS. The motion was seconded by Rep. Mercer, and the bill was further discussed.

Rep. Mercer said he had a question with regards to people who would try to avoid service. He is afraid that people will take off so that they cannot be personally served.

Rep. Addy moved on page 5, line 15 by striking "No" and inserting "Only one 20-day"; furthermore, on page 5, line 17 following "days" insert "or within the 20-day extension". The motion was seconded by Rep. Hammond and carried unanimously.

Rep. Hammond moved that HB 522 DO PASS AS AMENDED. The motion was seconded by Rep. Brown and carried with Rep. Eudaily dissenting.

The executive session adjourned at 8:00 a.m. so that the regular meeting scheduled for 8:00 a.m. could begin.



REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/14/85

EXECUTIVE SESSION - 7:00

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser			
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

February 14

19 35

MR. SPEAKER:We, your committee on JUDICIARYhaving had under consideration HOUSE Bill No. 522FIRST reading copy (WHITE)
colorPROVIDING NOTICE TO CLAIMANTS OF CERTAIN PROPERTY SUBJECT
TO FORFEITURERespectfully report as follows: That HOUSE Bill No. 522

be amended as follows:

1. Page 5, line 13.

Strike: "No"

Insert: "Only one 20-day"

2. Page 5, line 17.

Following: "days"

Insert: "or within the 20-day extension"

AND AS AMENDED,

DO PASS